

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD  
cr

SPECIAL CIVIL APPLICATION No 6503 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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KISHOR CHANDRA BHAGUBHAI PATELTHRO'POH NARESH CHANDA

Versus

COMPETENT AUTHORITY AND ADDL COLLECTOR (ULC)

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Appearance:

MR KK TRIVEDI for Petitioners  
Mr.T.H.Sompura, learned A.G.P.  
for Respondent Nos. 1 & 2

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 13/10/97

#### ORAL JUDGEMENT

The petitioners filed Form No.1 under S.6 of the Urban Land (Ceiling & Regulation) Act, 1976 (hereinafter referred to as 'the Act') in respect of the land bearing Regular Survey No.235 of village Adajan and other lands. They had also applied for exemption under S.20 of the Act. On 26.9.79 the exemption was granted under S.20 of the Act. The State of Gujarat by order dated 18.11.89

revoked the exemption. The Competent Authority, therefore, proceeded under S.8 of the said Act and declared the petitioners' holdings to the extent of 6695.10 Sq.Mtrs. of land, out of above referred R.S.No.235 of village Adajan, to be in excess and the same was to be acquired. Against this order dated 31.8.90 the petitioners preferred Appeal No.57 of 1990 before the Urban Land Tribunal and this Appeal was rejected on 14.3.91. The petitioners also submitted an application for Housing Scheme under S.21(1) of the said Act read with Rule 11-B before respondent No.1 in respect of the above referred land within a period of 1139 days. This Application of the petitioners under S.21(1) is pending before the Competent Authority. During the pendency of this Application, Notifications under S.10(1) and S.10(3) have been issued on 11.6.92 and 6.7.92. Vide their letter dated 17.12.93 the petitioners requested the Competent Authority to cancel the Notifications issued under S. 10(3) and S.10(5) of the Act. Petitioners grievance is that while their application for sanction of the Housing Scheme under S.21(1) moved within stipulated time is pending consideration, the notifications have been issued under S. 10(3) and S.10(5), while all concerned authorities have given opinion in their favour for sanction of the said Scheme. The petitioners have also submitted that their grievance is fully covered by decisions of this Court rendered on 27.7.95 in Special Civil Application No.12560 of 1993 and on 3.4.97 in Special Civil Application No.2293 of 1997.

The factual position that the petitioners Application under S.21(1) of the Act for Housing Scheme is still pending and the same had been moved within the time prescribed and in accordance with Rule 11-B, is not disputed by the learned AGP appearing on behalf of the respondents. In the facts and circumstances of this case, a direction is, therefore, issued to the Competent Authority to decide petitioners' application under S.21(1) of the Act, which is pending with the Competent Authority since 23.9.91, within a period of three months from the date the certified copy of this order is served upon the concerned Competent Authority and till then no further action to the prejudice of the petitioners with regard to the land in question shall be taken. All other legal consequences shall depend upon the orders, which may be passed by the concerned Competent Authority on the petitioners' application under S.21(1) of the Act and in case this Application is rejected, notifications, which have already been issued under different sub-sections of S.10, would operate. It goes without saying that while considering petitioners' application under S.21(1), the

concerned Competent Authority shall not take into consideration the notifications, which have been issued under S.10(3) and S.10(5).

With the directions and observations, as aforesaid, this Special Civil Application is partly allowed and the Rule is made absolute accordingly with no order as to costs.